

K.S.A. § 77-615, Judith McConnell, Executive Director of the Commission is designated to receive service of process on behalf of the Commission as the agency head.

5. The Order appealed from is the Commission's Order of December 27, 1996, a copy of which is attached hereto as Exhibit A, as amended in part and affirmed in part by the Commission's Order on Reconsideration of February 3, 1997, a copy of which is attached hereto as Exhibit B, in the General Investigation Docket No. 190,492-U; 94-GIMT-478-GIT (together, the "Order"), relating to the establishment and funding of the Kansas Universal Service Fund ("KUSF").

6. In addition to CMT Partners, the other persons or entities who are known to be parties to the Commission's action appealed herein are as follows: Southwestern Bell Telephone Company; Independent Telecommunications Group; Columbus, et al.; State Independent Telephone Alliance; Sprint Communications Co. L.P.; United Telephone Company of Kansas; AT&T Communications of the Southwest; MCI Telecommunications Corporation; Comptel of Kansas; Kansas Cable Telecommunications Association; Citizens' Utility Ratepayers Board; Kansas City Fiber Network, L.P.; Multimedia Hyperion Telecommunications, Inc.; Sprint Spectrum L.P.; KIN Network of Salina; and Mountain Solutions, Inc.:

#### PROCEDURAL HISTORY AND BASIS FOR REVIEW

7. A docket was opened by the Commission in 1994 pursuant to Senate Concurrent Resolution 1627 which called for a generic investigation into the status of local competition within the telecommunications industry. That docket was opened as No.

190,492-U; 94-GIMT-478-GIT and entitled *"In the Matter of a General Investigation Into Competition Within the Telecommunications Industry in the State of Kansas."*

8. On May 5, 1995, the Commission issued its Order in which the Commission found, *inter alia*, local competition to be generally in the public interest.

9. On February 8, 1996, Congress enacted the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 143 (the "Federal Act"), *to be codified at* 47 U.S.C. §§ 151 *et seq.*, which established a procompetitive, deregulatory policy framework for telecommunications.

10. On April 4, 1996, the Commission issued its Order concerning universal telecommunications service in Kansas. That Order, however, left a number of issues concerning universal service unresolved.

11. On April 4, 1996, the Commission created the Kansas Universal Service Fund ("KUSF") and issued its Phase II Procedural Order establishing a schedule for filing direct testimony and conducting a technical hearing on unresolved universal service issues.

12. On May 17, 1996, the Senate Substitute for Substitute for House Bill 2728 amending certain portions of the Kansas Telecommunications Act was enacted into law and *codified at* K.S.A. § 66-2001 *et. seq.* (the "1996 Amendments"). The 1996 Amendments called for the implementation of competition in compliance with the new Federal Act and directed the Commission to establish and fund the KUSF.

13. K.S.A. § 66-2008(b) directs the Commission to require every telecommunications carrier, telecommunications public utility and wireless

telecommunications service provider that provides intrastate telecommunications services to contribute to the KUSF on an equitable and nondiscriminatory basis.

14. On May 30, 1996, the Commission issued an Order Modifying the Phase II Procedural Schedule. (Commission's Order dated April 14, 1996). This Order again set forth issues to be determined regarding the regulation and funding mechanism for the KUSF and established a schedule for filing direct testimony and conducting a technical hearing on unresolved universal service issues.

15. Although copies of the Orders described above were served by the Commission's staff on those telecommunications service providers who previously had participated in the Commission's competition docket, no formal notice of the proceedings in that docket was attempted on any wireless telecommunications service providers including CMT Partners.

16. On August 12-15, 1996, this Commission conducted a Technical Hearing pursuant to the Commission's April 4, 1996 Phase II Procedural Order.

17. On August 12, 1996, the Commission granted CMT Partners' Petition to intervene in those proceedings.

18. On August 12, 1996, CMT Partners objected to notice of the Technical Hearing on the grounds that they had not received sufficient notice of the hearing to timely file direct testimony or to adequately prepare to cross examine the witnesses who had filed direct testimony.

19. The Commission found that all parties including the CMT Partners intervenors were presumed to know the law, found that notice was adequate to proceed, and overruled CMT Partner's objection. (Trans. of Proceedings, August 12, 1996, p. 1765).

20. On December 27, 1996, the Commission issued its Order which established and provided for funding of the KUSF. The Commission's Order directed wireless telecommunications service providers, including CMT Partners, to contribute to the KUSF through payment of a surcharge on revenues from the provision of intrastate telecommunications services. Through Paragraphs 111, 112 and 187 of its Order, the Commission held that wireless telecommunications service providers must pay a surcharge of up to 14.1% of their revenue from the provision of intrastate telecommunications services to support the KUSF. The Commission's Order did not assess a surcharge on local exchange carriers to support the KUSF.

21. On January 14, 1996, CMT Partners filed with the Commission a timely Petition for Reconsideration of the Commission's Order dated December 27, 1996.

22. On February 3, 1997, the Commission issued its Order on Reconsideration which granted in part and denied in part CMT Partners' Petition for Reconsideration.

23. On February 17, 1996, CMT Partners filed with the Commission a timely Petition for Reconsideration of the Commission's Order on Reconsideration dated February 3, 1997.

24. CMT Partners were parties to the Commission's proceedings that resulted in the Commission's Order.

25. Pursuant to the Commission's Order, CMT Partners are required to pay up to a 14.1% monthly surcharge on revenues from the provision of intrastate telecommunications services in Kansas. (Commission's Order, ¶¶ 111, 187 December 27, 1996).

26. Purporting to act under the authority of the Commission's Order, the KUSF Administrator has informed CMT Partners that they are required to pay a 9% surcharge on revenues from the provision of intrastate telecommunications services in Kansas during the month of March 1997 on or before April 15, 1997. Thereafter, CMT Partners are required to pay a 9% monthly surcharge on revenues from the provision of intrastate telecommunications services in Kansas. The KUSF Administrator also has informed CMT Partners that the KUSF surcharge will increase to 12.13% in 1998 and 13.68% in 1999. (Letter from National Exchange Carrier Association dated February 18, 1997, and attached hereto as Exhibit C.)

27. CMT Partners have exhausted all administrative remedies available as required by K.S.A. §§ 77-607 and 77-612.

### REASONS FOR JUDICIAL REVIEW

#### COUNT I

For Count I of their Petition against the Commission, CMT Partners state as follows:

28. CMT Partners adopt and incorporate by reference as though fully set forth herein Paragraphs 1 through 27 of their Petition.

29. K.S.A. § 66-2008, as applied to wireless telecommunications service providers, violates the United States and Kansas Constitutions.

30. Congress has preempted the Kansas Legislature's authorization to the Commission to require wireless telecommunications service providers including CMT Partners, to contribute to the KUSF through the Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1993 and the federal Telecommunications Act of 1996, 47 USC § 332(c). Pursuant to 47 U.S.C. § 332(c), Congress has specifically directed that no state or local government shall impose requirements upon wireless telecommunications service providers to support the universal availability of telecommunications services absent a specific finding by the Federal Communications Commission that wireless telecommunications service providers are a substitute for landline telephone service for a substantial portion of the communications within Kansas. No such finding has been made. K.S.A. § 66-2008, therefore, violates the Supremacy Clause of the United States Constitution and is unlawful. U.S.C.A. Const. Art. 1, § 8, cl. 3.

31. The Kansas Legislature's authorization to the Commission to determine the appropriate level of funding and regulation of the KUSF and the appropriate contribution to the KUSF from telecommunications providers pursuant to K.S.A. §§ 66-2002 and 66-2008 constitutes an improper and unconstitutional delegation of legislative power to an administrative agency and is unlawful. K.S.A. Const. Art. 2 §1.

32. K.S.A. §§ 2002 and 2008 are void for vagueness because they violate CMT Partners' rights to due process in violation of the 5th and 14th Amendments to the United States Constitution and are, therefore, unlawful. U.S.C.A. Const. Amds. 5, 14.

WHEREFORE, CMT Partners pray for declaratory judgment against the Commission that the provisions of K.S.A. §§ 66-2002 and 66-2008 violate the United States and Kansas Constitutions and, therefore, be set aside and vacated as void. CMT Partners pray further for the Court's declaratory judgment that the Commission's Order of December 27, 1996 and Order on Reconsideration of February 3, 1997 are similarly void and the Commission be enjoined from taking any action to enforce said Orders, and for such further and additional relief as the Court deems just and proper.

### COUNT II

For Count II of their Petition against the Commission, CMT Partners state as follows:

33. CMT Partners adopt and incorporate by reference as though fully set forth herein paragraphs 1 through 32 of their Petition.

34. The Commission's Order is based upon an erroneous interpretation of K.S.A. § 66-2001 *et. seq.* and is, therefore, unlawful.

35. The Commission's Order defining "Intrastate Retail Revenues" is unconstitutional on its face, is void for vagueness in violation of CMT Partners' rights to due process in violation of the 5th and 14th Amendments to the United States Constitution and is unlawful. U.S.C.A. Const. Amd. 5, 14.

36. The definition of "Intrastate Retail Revenues" in the Commission's Order conflicts with the K.S.A. § 66-2008 because the Order on Reconsideration classifies all "local service" as "intrastate" regardless of the geographical realities. Such classification is not

authorized by, K.S.A. § 66-2008, is in violation of K.S.A. § 66-2008 and is, therefore, unlawful.

37. The Commission's Order violates K.S.A. § 66-2008(a) because it mis-defines the KUSF and fails to require that all telecommunications service providers pay a surcharge to support the KUSF and is, therefore, unlawful.

38. The Commission's Order inequitably discriminates against wireless telecommunications service providers, including CMT Partners, and their customers in violation of the Communications Act of 1934, as amended, and K.S.A. § 66-2008(a) and is unlawful and unreasonable.

39. The Commission's Order requires wireless telecommunications service providers, including CMT Partners, to subsidize local exchange carriers in providing local telephone service through permitting local exchange carriers to charge their customers less than the cost of providing local telephone service. The subsidization mandated by the Commission's Order is a barrier to market entry for competitive service providers and technology and violates K.S.A. §§ 66-2000 *et al.*, and the federal Communications Act as amended by the federal Telecommunications Act of 1996. The Commission's Order is, therefore, unlawful.

40. The Commission's Order constitutes an exercise by the Commission of jurisdiction, regulation, supervision and control over radio common carriers including CMT Partners in violation of the provisions of K.S.A. § 66-1.143 and is, therefore, unlawful.

41. The Commission's Order is otherwise unreasonable arbitrary or capricious as it relates to the KUSF.



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WHEREFORE, CMT Partners pray for declaratory judgment that the Commission's Order relating to the KUSF violates the United States and Kansas Constitutions, and K.S.A. § 66-2000 *et. seq.* and is, therefore, null and void. CMT Partners further pray for the Court's declaratory judgment vacating and setting aside the Commission's Order. CMT Partners further pray the Court's Order enjoining the Commission from taking any further action to enforce the Commission's Order and for such other and additional relief as the Court deems just and proper.

### COUNT III

For Count III of their Petition against the Commission, CMT Partners state as follows:


42. CMT Partners adopt and incorporate by reference as though fully set forth herein paragraphs 1 through 41 of their Petition.

43. The Commission failed to give adequate notice to wireless telecommunications service providers including CMT Partners, of the proceedings by which the Order of December 27, 1996 was issued. This inadequate notice constitutes a violation of the due process rights of CMT Partners. U.S.C.A. Const. Amd. 5, 14. For this reason, the Commission's Order is both unlawful and unreasonable.

WHEREFORE, CMT Partners pray for declaratory judgment that the Commission's Order relating to the KUSF violates the United States and Kansas Constitutions, and K.S.A. § 66-2000 *et. seq.* and is, therefore, null and void. CMT Partners further pray for the Court's declaratory judgment vacating and setting aside the Commission's Order. CMT Partners

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further pray the Court's Order enjoining the Commission from taking any further action to enforce the Commission's Order and for such other and additional relief as the Court deems just and proper.

  
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**CERTIFICATE OF SERVICE**

I hereby certify that a correct copy of the above was mailed this 5th day of March 1997 to each of the following:

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ON BEHALF OF COMPTEL OF KANSAS

IN THE IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

MOUNTAIN SOLUTIONS, INC., ET AL.,

Plaintiffs,

vs.

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS, ET AL.,

Defendants.

Case No. 97-2116-KHV

**SOUTHWESTERN BELL TELEPHONE COMPANY'S MOTION TO DISMISS**

Southwestern Bell Telephone Company, for its Motion to Dismiss Plaintiffs' Complaint, states as follows:

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs' Complaint requests the court to declare paragraph 187 of the Kansas Corporation Commission's ("KCC") Order dated December 27, 1996 in Docket No. 190,490-U ("The Order") and K.S.A. 66-2008(b) as invalid by virtue of the Supremacy Clause of the United States Constitution.
3. K.S.A. 66-2001 et seq., which was expressly drafted to conform to 47 U.S.C. § 254(f), requires all telecommunications carriers to contribute to the Kansas Universal Service Fund on an "equitable and nondiscriminatory basis." K.S.A. 66-2008(b).

4. K.S.A. 66-2001 et. seq. specifically applies to wireless providers. Id. Further, as the KCC found and held, wireless providers are telecommunication carriers under The Communications Act of 1934, as amended by The Telecommunications Act of 1996 ("The Federal Act"). 47 U.S.C. § 153 (43), (44), (46). Order, ¶¶ 186, 187. Therefore, both K.S.A. 66-2008(b) and The Order are actions specifically authorized and contemplated by The Federal Act.

5. A Joint Board of federal and state regulators has, pursuant to 47 U.S.C. § 254, issued recommendations concerning the creation of a federal universal service fund under the Federal Act and has recommended that wireless providers contribute to that fund.

6. The Order requires SWBT to reduce its rates for long distance and access, requires that this rate reduction be revenue neutral on SWBT, and requires that the revenue neutrality be achieved by assessments paid to the KUSF. Therefore, the Order constitutes an order "affecting rates." As a result, the relief requested by plaintiffs would constitute an injunction violative of 28 U.S.C. § 1342.

7. Plaintiffs have failed to exhaust their administrative remedies because plaintiffs have failed, as required by 47 U.S.C. 253(d), to request the FCC to preempt K.S.A. 66-2008(b) and The Order.

8. Plaintiffs' reliance upon 47 U.S.C. § 332(c)(3) as a basis for their preemption argument is misplaced because section 332(c)(3) applies only to state regulation of cellular entry or pricing, neither of which are regulated by the Order. Further, 47 U.S.C. § 254 expressly requires every telecommunications carrier that provides intrastate telecommunications services to "contribute,

on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal services in that State." 47 U.S.C. § 254(f).

9. A Memorandum of Law in Support of this Motion to Dismiss has been filed with this motion and is incorporated herein by reference.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law in Support, Southwestern Bell Telephone Company requests that the Court enter its Order dismissing plaintiff's Complaint.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE  
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DEFENDANTS

  
Attorneys for Southwestern Bell  
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KUSF SUPPORT PAYMENTS

Q. Who should receive support?

A. Per the recommendation in the USWG report, companies that provide service in high cost rural areas should receive support. Rural areas are defined as exchanges which have 10,000 or fewer access lines. The "High Cost" classification for an exchange(s) is declared when the incumbent LEC is a KUSF recipient. The Kansas Act provides KUSF distributions for companies "that are deemed eligible both under subsection(e)(1) of section 214 of the federal act and by the Commission." (Sec.9(c)) That could include Alternative LECs (ALECs) and make them eligible for KUSF to the extent that they provide service in the high cost rural area.

Q. Should wireless providers be included in the eligibility for KUSF support payments?

A. Wireless providers have made no showing that wireless service is indeed an equivalent substitution for wireline service. While the Kansas Act certainly leaves the door open for the wireless industry to receive support, there are a number of concerns which Staff should mention. The current problem of rebalancing access rates is tied to the support for wireline service and is not caused by wireless service. The problem is one that is tied to the regulated telecommunications industry. As a result payments should be directed initially to continue the support for universal service. Wireless companies will benefit because they will receive or have already received (through contract arrangements) reductions in the access charges they pay to complete calls terminating outside the local exchange. The Commission must continue to be attuned to the changes in technology and customer preferences which could shift away from wireline. Kansas certainly does not want to support a technology beyond its usefulness. Imagine if we all had telegraph

1 testimony, you address the issue of  
2 substitutability of wireless service or wire line  
3 service, do you see that?

4 A. Yes, sir.

5 Q. Okay. Do I read this as stating in  
6 Staff's opinion, wireless service is not a  
7 substitute for wire line service?

8 A. What I was pointing out here is that  
9 the industry had not made a case that it was, and  
10 at this point in time we are certainly not aware  
11 that it is.

12 Q. Okay. And that includes both cellular  
13 and PCS?

14 A. Yes.

15 Q. Right? If you go down a little farther  
16 on that page, Line 17 through 19, where you  
17 testified the current problem of rebalancing  
18 access rates is tied to the support for wire line  
19 service and is not caused by wireless service.  
20 Do you see that testimony?

21 A. Right.

22 Q. So is it, is it your belief that the  
23 wireless providers are not to blame for any of  
24 the problems that are -- that, that the Staff and  
25 other companies are attempting to solve through

SUSAN M. SELTSAM, COMMISSIONER OF  
THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS, IN HER  
OFFICIAL CAPACITY

Serve:

The Attorney General  
of the State of Kansas  
Second Floor, Judicial Center  
Topeka, KS 66612, and

JOHN WINE, COMMISSIONER OF THE  
STATE CORPORATION COMMISSION OF THE  
STATE OF KANSAS, IN HIS OFFICIAL  
CAPACITY

Serve:

The Attorney General  
of the State of Kansas  
Second Floor, Judicial Center  
Topeka, KS 66612,

Defendants.

**VERIFIED COMPLAINT  
FOR PRELIMINARY AND PERMANENT INJUNCTION AND  
DECLARATORY JUDGMENT**

Sprint Spectrum, L.P., Mountain Solutions, Inc., Liberty Cellular, Inc., Topeka Cellular Telephone Company, Inc., AirTouch Cellular of Kansas, Inc., CMT Partners, Mercury Cellular of Kansas, Inc., DCC PSC, Inc. Corporation, Dobson Cellular of Kansas/Missouri, Inc. and Western Wireless Corporation ("Plaintiffs"), for their Complaint against The State Corporation Commission of the State of Kansas; National Exchange Carrier Association, Inc., Carla Stovall, the Attorney General of Kansas, in her official capacity; and Timothy E. McKee, Susan M. Seltsam and John Wine, Commissioners of State Corporation Commission of the State of Kansas, each in their official capacity ("Defendants"), allege and state as follows:

## **I. INTRODUCTION**

This dispute arises from Orders issued by the State Corporation Commission of the State of Kansas (the "Corporation Commission") on December 27, 1996 and February 3, 1997, and the enactment of the Kansas Telecommunications Act, [K.S.A. 66-2000 et seq.] ("The State Act"), on July 1, 1996. The Corporation Commission's Orders ruled on matters related to telecommunications in Kansas, and in particular, to the Kansas Universal Service Fund. Among other things, the Orders directed Commercial Mobile Service ("CMS") providers, also known as wireless providers, to contribute to the Kansas Universal Service Fund. The Corporation Commission also found that neither the State Act, nor the Corporation Commission's rulings were inconsistent with or preempted by the Communications Act of 1934, as amended, 47 U.S.C. § 151, et seq.

But the Corporation Commission was wrong. In the absence of a finding that Commercial Mobile Services are a substitute for a substantial portion of land line telephone exchange services within the State of Kansas, neither the State of Kansas nor the Corporation Commission can require CMS providers to contribute to the Kansas Universal Service Fund.

Plaintiffs in this case are members of the Commercial Mobile Services industry operating within the State of Kansas, and face immediate and irreparable harm if the Corporation Commission's unlawful Orders are not declared invalid.

## **II. PARTIES**

1. Mountain Solutions, Inc. ("Mountain Solutions") is a corporation duly organized and existing under the laws of the State of Colorado with its principal place of business at 7220 West Jefferson in the City of Lakewood, County of Adams, State of Colorado. Mountain Solutions has acquired licenses issued by the Federal Communications Commission ("FCC") to

provide Personal Communication Services in Kansas. Mountain Solutions is a provider of CMS as that term is defined in section 332 of the Communications Act, 47 U.S.C. § 332.

2. Plaintiff Sprint Spectrum, L.P. ("Sprint Spectrum") is a limited partnership duly organized and existing under the laws of the state of Delaware with its principal place of business at 4900 Main Street, in the City of Kansas City, County of Jackson, State of Missouri. Sprint Spectrum does business under the name of Sprint PCS. Sprint Spectrum has acquired licenses from the FCC to provide Personal Communication Services in Kansas. Sprint Spectrum is a CMS provider.

3. Liberty Cellular, Inc. ("Liberty Cellular") is a corporation duly organized and existing under the laws of the State of Kansas with its principal place of business at 621 Westport Boulevard, in the City of Salina, County of Saline, State of Kansas. Liberty Cellular does business under the name of Kansas Cellular and provides Cellular Services within the State of Kansas pursuant to licenses issued by the FCC. Liberty Cellular is a CMS provider.

4. Topeka Cellular Telephone Company, Inc. ("Topeka Cellular") is a Kansas Corporation duly organized and existing under the laws of the State of Kansas, with its principal place of business at 10895 Lowell, City of Overland Park, County of Johnson, State of Kansas. Topeka Cellular is authorized by the FCC to provide cellular services within the State of Kansas. Topeka Cellular is a CMS provider.

5. CMT Partners is a general partnership duly organized and existing under the laws of Delaware with its principal place of business at 10895 Lowell, City of Overland Park, County of Johnson, State of Kansas. CMT is authorized by the FCC to provide cellular services within the State of Kansas. CMT Partners is a CMS provider.

6. AirTouch Cellular of Kansas, Inc. ("AirTouch") is a Kansas Corporation duly organized and existing under the laws of the State of Kansas, with its principal place of business at 10895 Lowell, City of Overland Park, County of Johnson, State of Kansas. AirTouch is authorized by the FCC to provide cellular services within the State of Kansas. AirTouch is a CMS provider.

7. Mercury Cellular of Kansas, Inc. ("Mercury Cellular") is a Kansas Corporation duly organized and existing under the laws of the State of Louisiana, with its principal place of business at Hibernia Tower, One Lake Shore Drive, 19th Floor, City of Lake Charles, Parrish of Calcasieu, State of Louisiana. Mercury Cellular is authorized by the FCC to provide cellular services within the State of Kansas. Mercury Cellular is a CMS provider.

8. Western Wireless Corporation ("Western Wireless") is a corporation duly organized and existing under the laws of the State of Washington with its principal place of business at 2001 NW Sammamish Road, Suite 200, City of Issaquah, County of King, State of Washington. Western Wireless is authorized by the FCC to provide cellular services within the State of Kansas. Western Wireless does business under the name Cellular One in parts of Kansas. Western Wireless is a CMS provider.

9. DCC PCS, Inc. ("DCC PCS") is a corporation duly organized and existing under the laws of the state of Oklahoma, with its principal place of business at 13439 North Broadway Extension, Suite 100, in the city of Oklahoma City, State of Oklahoma, County of Oklahoma. DCC PCS, Inc. has acquired a license from the FCC to provide Personal Communications Services within the State of Kansas. DCC PCS is a CMS provider.

10. Dobson Cellular of Kansas/Missouri, Inc. ("Dobson Cellular") is a corporation duly organized and existing under the laws of the State of Oklahoma with its principle place of



business at 13439 North Broadway Extension, Suite 100, in the city of Oklahoma City, State of Oklahoma, County of Oklahoma. Operating under the business name of Cellular One, Dobson Cellular offers cellular services within the State of Kansas as authorized by the FCC. Dobson Cellular is a CMS provider.

11. Defendant, The State Corporation Commission of the State of Kansas (the "Corporation Commission") is a state agency organized under K.S.A. § 66-101, et seq., for the purpose of regulating public utilities in the State of Kansas. The address of the Corporation Commission is 1500 S.W. Arrowhead, Topeka, Kansas 66604-4027. Pursuant to K.S.A. § 60-304(d)(5), service of process should be made upon the Attorney General of the State of Kansas, Judicial Center, Second Floor, Topeka, Kansas 66612.

12. Defendant National Exchange Carrier Association, Inc. ("NECA") is a Delaware not-for-profit corporation that has been selected by the Defendant Corporation Commission as the administrator of the Kansas Universal Service Fund. NECA's address is: 1001 Craig Road, St. Louis, Missouri 63146. NECA's Registered Agent for service of process is The Corporation Company, Inc., 515 South Kansas Ave., Topeka, Kansas 66603

13. Defendant, Carla Stovall, the Attorney General of the State of Kansas, is named in her official capacity. Service of process on the Attorney General should be made by certified mail to The Attorney General of the State of Kansas, Judicial Center, Second Floor Topeka, KS 66612.

14. Defendant, Timothy E. McKee, a Commissioner of the State Corporation Commission of the State of Kansas, is named in his official capacity. Service of process on Timothy E. McKee should be made by certified mail to The Attorney General of the State of Kansas, Judicial Center, Second Floor Topeka, KS 66612.